

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

JAN WOJTASZEK,

Plaintiff,

vs.

TRAMVIEW INVESTORS,

Defendant.

CASE NO. 12-cv-227-MMA (JMA)

**ORDER GRANTING MOTION TO  
PROCEED IN FORMA PAUPERIS;**

[Doc. No. 13]

**DISMISSING COMPLAINT WITH  
PREJUDICE**

On January 27, 2012, Plaintiff Jan Wojtaszek, proceeding *pro se*, filed the above-captioned action against Tramview investors. [Doc. No. 1.] Along with the complaint, Plaintiff filed a motion to appoint counsel. [Doc. No. 2.] On February 2, 2012, the Court *sua sponte* dismissed the action for lack of subject matter jurisdiction and denied the motion for appointment of counsel as moot. [Doc. No. 3.] Plaintiff later filed a document which the Court construed as a first amended complaint ("FAC"). [Doc. No. 9.] Subsequently, the Court ordered Plaintiff to pay the filing fee or move to proceed in forma pauperis ("IFP"). [Doc. No. 11.] On April 3, 2012, Plaintiff submitted a motion to proceed IFP. [Doc. No. 13.]

Based on the information provided by Plaintiff, pursuant to 28 U.S.C. § 1915(a), the Court **GRANTS** Plaintiff's IFP motion. The Court is obligated to review a complaint filed IFP *sua sponte* and must dismiss the action if it determines that the complaint is frivolous, malicious, or fails to state a claim for relief. *See* 28 U.S.C. § 1915(e)(2). After careful review, the Court finds

1 that Plaintiff's complaint is frivolous and void of any plausible claims for relief. The FAC is  
2 rambling and incoherent and does not provide a statutory or legal basis for Plaintiff's claims. The  
3 FAC appears to be a document previously filed in the United States Court of Appeals in St. Louis,  
4 Missouri and alleges the same factual allegations as those in the original complaint filed in the  
5 present action. Although the Court is sympathetic to Plaintiff's apparent unfortunate  
6 circumstances, the allegations set forth in the FAC do not state a valid claim upon which relief can  
7 be granted. Furthermore, Plaintiff still fails to provide any basis for the Court's subject matter  
8 jurisdiction over the action. Because "it is absolutely clear that the deficiencies of the complaint  
9 could not be cured by amendment," the Court **DISMISSES** the complaint **with prejudice**.  
10 *Franklin v. Murphy*, 245 F.2d 1221, 1228 n.9 (9th Cir. 1984).

11 **IT IS SO ORDERED.**

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13 DATED: April 17, 2012

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15 Hon. Michael M. Anello  
16 United States District Judge  
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